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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 BRIAN K. JOHNSON,) CASE NO. C09-0114-JLR
09)
Petitioner,)
10)
v.) REPORT AND RECOMMENDATION
11)
RON VAN BOENING,)
12)
Respondent.)
13 _____)

14 On January 26, 2009, petitioner submitted to the Court for filing a petition for writ of
15 habeas corpus under 28 U.S.C. § 2254. (See Dkt. 1) This Court subsequently issued an Order
16 directing that the petition be served on respondent and that respondent file an answer to the
17 petition. (Dkt. 8) On March 23, 2009, the Court received a letter from respondent's counsel
18 advising that he had not received certain attachments referenced in petitioner's petition and was
19 therefore unable to file an answer. (See Dkt. 11) Upon receipt of counsel's letter, the Court
20 reviewed petitioner's petition and determined that it was, in fact, incomplete. Specifically, the
21 Court noted that in the space provided for petitioner to identify his ground for relief, he wrote
22 only "see attached paperwork," but then failed to attach any additional paperwork to the

petition. (*See* Dkt. 7 at 5.)

In light of this deficiency, the Court, on May 5, 2009, issued an Order directing petitioner to either supplement his petition with the “attached paperwork” referenced in his original petition or to file an amended petition setting forth his ground for relief. Petitioner was granted thirty days within which to respond to the Order and was advised that his failure to timely comply with the Court’s directive would result in a recommendation that this action be dismissed. On June 5, 2009, the Court received from petitioner a motion to amend in which he requests that the Court recognize a number of additional “defendants” in this action. Petitioner’s motion was not accompanied by an amended petition or any supplemental paperwork addressing the deficiency identified by the Court in its May 5, 2009, Order.

To date, petitioner has not complied with the Court's directive that he supplement or amend his petition. Accordingly, this Court recommends that petitioner's federal habeas petition be dismissed without prejudice and that petitioner's motion to amend be stricken as moot. A proposed order accompanies this Report and Recommendation.

DATED this 17th day of June, 2009.

s/ Mary Alice Theiler
United States Magistrate Judge